

APPEAL NO. 032431
FILED OCTOBER 24, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 21, 2003. The hearing officer resolved the disputed issues by deciding that the appellant's (claimant) compensable injury of _____, does not extend to and include an injury to the cervical spine, and does not extend to and include lumbar spondylosis, disc displacement, and degenerative changes at L4-5 and L5-S1; and that the claimant did not have disability from July 30, 2002, through May 1, 2003, resulting from the injury of _____. The claimant appeals, contending that the hearing officer erred in deciding the disputed issues regarding the extent of the compensable injury and disability. The respondent (carrier) asserts that the evidence supports the hearing officer's decision.

DECISION

Affirmed.

The claimant had the burden to prove the extent of his compensable injury and that he had disability as defined by Section 401.011(16). Conflicting evidence was presented on the disputed issues. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The weight to be given to the treating doctor's opinion and the pain drawings, as well as the rest of the evidence, including the claimant's testimony, was for the hearing officer to determine. We cannot say that the pain drawings referred to by the claimant in his appeal actually indicate neck pain. We believe that the hearing officer made a typographical error in the Statement of the Evidence portion of her decision when she stated that the claimant did not return to work on March 18, 2002, and that she meant to write that the claimant did return to work on that date, which would be consistent with the claimant's testimony. Although there is conflicting evidence in this case, we conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **TOKIO MARINE & FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**BRIAN C. NEWBY
400 WEST 15TH STREET, SUITE 200
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Margaret L. Turner
Appeals Judge